

Collective Complaint against the actions of Kaunas Municipality to be submitted by Žemųjų Šančių bendruomenė (ŽŠb), Kaunas. Lithuania

Submitted to: EU Commission, Brussels and Aarhus Convention Committee, Geneva.

Date of submission: 2024-03-29

1. Introduction

Our community association, located in Šančiai, Lithuania submits this detailed collective complaint to the Aarhus Convention Committee in Geneva and the European Commission in Brussels. It concerns the failure of our State organs to give our association, an NGO of environmental stakeholders, the right to participate in environmental decision making for urban planning. Our five-year practice site of [research](#) and [innovation](#) has highlighted the need to recourse beyond the regional and national level so as to overcome the corrosive State barriers we experience in general and territorial planning. There is a complete lack of oversight in these processes, and therefore undermines any possible operation of the principle of subsidiarity for matters related to the urban environment. Furthermore, our communities' access to justice has been denied as all routes e.g. administrative court, and other independent bodies, have failed to ensure that public authorities respect the rights to access to information and public participation, and environmental law in matters related to urban planning.

2. Basis of complaint

This collective complaint alleges the violation of specific directives of the Aarhus Convention; directives related to implementing the principle of equal treatment between persons evidenced

Through its failure to act

- to inform and engage citizens in decision making in relation to urban planning;
- to ensure the legitimate right to participation by civil society in decision making processes that in effect directly impacts upon the well-being of communities;
- To obscure Access to justice refers to the public's right to review by a court or another independent body to ensure that public authorities respect the rights to access to information and public participation, and environmental law in general.

And,

Through practices that

- exclude participation of citizens and civil society organisations in the territorial/urban planning processes;
- form barriers to local self-government and the role of civil society therein.

The decision by ŽŠb community association to open separate Aarhus and EU Commission complaint processes against Kaunas Municipality arises following five years in which every avenue available within the established procedural mechanisms were used to participate, resist, and envision alternatives to

aggressive urbanisation and top-down local territorial planning of neighbourhoods in which the voice of citizens and civil society was excluded.

3. Description of the basis of the complaint

Since 2019, the community of Lower Šančiai, Kaunas, Lithuania has voiced its opposition to plans for a New Road Project along the river Nemunas embankment. It has outlined its criticisms and communicated explicitly in line with the established procedures and appeals processes.

3.1 Milestones 2019-2024

Between March 2019 and December 2023, ŽŠB has implemented and documented 27 civic actions and undertaken multiple appeal processes in which it expressed opposition to the Nemunas waterfront street designed, without input by local people, by the Kaunas municipality and its agents. These are:

2019

- The Nemunas embankment road project for Šančiai, Kaunas was presented, in line with the existing procedural process, to the public as a road reconstruction project proposal. The community association, ŽŠB submitted comments and suggestions, but were not considered.
- The community organised the Nemunas Road [Campaign](#) in which six thousand people confirmed their disapproval of the projected street with their signatures; seven hundred people took part in a march.
- LRT – the national radio and television research department identified potential conflict of interest in the road project proposal because businessmen close to Kaunas Municipality members, Mayor Visvaldas Matijošaitis and his Šarūnas Matijošaitis are preparing to build apartment buildings in our neighbourhood.
- At the request of ŽŠB, the Kaunas Regional Architects' Council (RAT) recommended that the road project should not proceed because the proposals lacked an architectural component and offered no scope for improving recreational areas (KRAT, 2019-06-19). [RAT meeting](#)
- No further information emerged from the Municipality in 2019.

2020

- Between 2020-2023 the community of the Lower Šančiai, together with Kaunas University of Technology and Norwegian partners implemented the project [Genius loci: urbanization and civil society](#), which was financed by the EEA and Norwegian financial mechanisms under the strand dedicated to Culture, Civil Society, Good Governance and Fundamental Rights and Freedoms. This project was its response to the problem of urban development in Šančiai district that fails to meet the requirements of the Kaunas city master plan and violates the public interest.

2021

- In March, a [new project](#) proposal for the reconstruction of the Nemunas waterfront street and bicycle path were presented to the public. The community submitted its comments and [Suggestions](#), but they were not considered nor responded to by the Municipality.
- In parallel, the community submitted a proposal to the administration of Kaunas municipality to change and correct the territorial planning

document at the local level, removing from it the D1 category street solution planned for the Nemunas embankment and designing a separate green area - a recreational-memorial park with an area of about 25 ha - on the banks of the Nemunas in Lower Šančiai. The proposal was rejected.

- As an alternative to the new Road Project, a [proposal](#) was developed to establish *Nemunas Park* zone and this was submitted by Šančiai community. It was not taken into consideration by Kaunas Municipality.

2022

- In June 2022, the Genius loci project was awarded the New European Bauhaus for its digital mapping tool under the category 'creating a sense of belonging' <https://diginet.eu/digital-toolkit/genius-loci>. The Genius Loci project publishes a conceptual plan for the urban and architectural formation of the distinctive Lower and Upper Šančiai territories was created - an urban vision (as recommended in a provision of clause 54 of the Kaunas general plan explanatory note). ŽŠB submitted the [Urban Vision no. 3](#) was submitted to Kaunas Municipality, but a response was never received.
- Furthermore, the community requested the preparation of a territorial planning document at the local level, what is termed a Šančiai District Complex Plan. In accordance with this urban vision, to prepare a local area-level general or local complex plan for Šančiai district and its integration into the general plan of the Kaunas city area. The community received an answer from Kaunas Municipality's Director of Administration. It reads, "Your request for the integration of the urban vision of Šančiai into the General Plan of the city of Kaunas and the Comprehensive Plan of Šančiai District taking into account the new goal of the adjustment of the General Plan, is directed to the monitoring (surveillance) of the General Plan and will not be considered during the adjustment of this General Plan". Ref: 2023-08-02 No. (33.200 Mr) R-2087.
- In November 2022, (6/11/2022) Kaunas municipality administration representatives (Gedeminas Barčauskas, Aloyzas Pakalniškis, Inga Bendokienė, Rokas Radvilavičius) met with the representatives of the Šančiai community, Vita Gelūnienė and Virginijus Baranauskas, and the independent urbanist Gediminas Šinkūnas. The meeting was initiated by representatives of the Kaunas City Municipality with the aim of starting the Nemunas waterfront street project from the beginning and involving the community in the planning process, together analysing problems, and looking for their solutions. During the meeting, it was discussed about the implementation of a creative workshop, in which representatives of the municipality and the community would look for common solutions related to the Nemunas coast located in the territory of Šančiai. During the conversation, the deputy director of administration Barčauskas emphasized that the street on the Nemunas waterfront will not be designed without the community's approval. After discussions, both parties agreed to devote the workshop to the territory of the Lower Šančiai and the vision of the Nemunas coast. Representatives of the municipality promised to implement creative workshops within half a year. However, Kaunas

municipality never fulfilled its promise. Following that meeting there was no formal communication by the Municipality to further the discussion. Informally, it was communicated that because ŽŠb had spoken to the media and conveyed a negative impression of the Municipality, therefore it would no longer continue to engage. The first ever invitation to Šančiai community from Kaunas Municipality was revoked, nor formally, but through hearsay.

2023

- In May 2023, design proposals for the Nemunas waterfront street are submitted by Kaunas Municipality for consideration by the Kaunas RAT without informing the community about it and without the community's approval. In December 2023, "the design proposals for the architectural part of the Nemunas waterfront street in Kaunas, the sketch stage and the urban feasibility study for the Nemunas waterfront street section of the Territory in Kaunas city were presented to the public during a public meeting on 05/12/2022. The meeting was a result of a secret action by the municipality in which it appealed to the Kaunas Regional Architecture Council to evaluate the design proposals. The Project Proposals and the Possibilities Study submitted for consideration contained the same solutions that the community of the Lower Šančiai did not support in principle in 2022. ŽŠb and KBCA recommend for Kaunas RAT to consider the consistent contribution of the community to plan the Nemunas coast in Šančiai in a sustainable and inclusive manner and not to approve the project proposals of the architectural part of the Nemunas krantinė street in Kaunas and the urban feasibility study of the Nemunas embankment street section in Šančiai. RAT published its recommendation in 2024 saying that the Municipality should involve the community association in urban planning.
- In summer 2023, Kaunas Municipality also initiated a new project for the revival of Kaunas quays/embankment along Rivers Nemunas and Neris, which was implemented by Vilnius Technology University and Kaunas Architects Council sub group. The funding for this project came from Kaunas Initiatives programme, which meant that the project was delivered at arm's length of the Municipality and therefore outside the oversight mechanisms for democratic participation that apply to normal Municipal business. The aim of the project is to prepare scenarios for the integration of Kaunas Rivers embankment into the urban fabric of the city. Both ŽŠb and the Kaunas Communities' Council (KBCA) took the initiative to develop a process of dialogue with the promoters of this project, which led to a series of actions between July and November 2023 that were never envisaged by the Municipality.
- In 15/12/2023 the results of the project to revive Kaunas quays/embankment along Rivers Nemunas and Neris, were presented by the consultants from Vilnius Tech. Several scenarios for the integration of Kaunas River embankments into the urban fabric of the city were recommended and were submitted to Kaunas Municipality for adaptation before they will be made public.

4. Infringement of EU Directives

We have identified 5 failures as follows:

1. Lack of information related to environmental democracy laws especially related to obligations stemming from the Aarhus Convention, and Regulation (EC) No 1367/2006 of the European Parliament and of the Council, or the Peer Parliaments organised by the Union.
2. Non-engagement of people with a disability, young people and older people arising from being party to the UN Convention on the Rights of Persons with Disabilities and the European Union's Strategy on the rights of the child, the European Union's Youth Strategy.
3. Non-compliance with the right of citizens' and civil society organisations' access to appropriate redress mechanisms.
4. Non provision of appropriate and necessary information regarding a specific participation exercise in a timely manner and in easily accessible formats, including the context and the type of measures envisaged, the procedures, the timeline for participation, the authority responsible for the exercise and its contact details.
5. No measures to ensure that information is specifically provided to citizens and civil society organisations that are likely to be affected by a decision-making process with a particular attention to the most marginalised, underrepresented, and vulnerable individuals and groups.

Conclusion

Urban planning processes in Kaunas have failed to respect the rule of law because it has failed to enable effective participation in public policy-making processes with civil society organisations and created an unsafe, unhealthy, and untrusting civic space, where they are not protected, supported or empowered. Continuous efforts have been made by the Municipality that represent unjustified interference by the State'. Such space is a key component of democratic systems where the rule of law and fundamental rights are respected and upheld.

Notes

- 1 UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: EU Citizenship Report 2020 - Empowering citizens and protecting their rights, COM(2020)730 final.
- 2 See the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol (A/RES/61/106). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on the Rights of the Child, COM(2021) 142 final, 24.3.2021.